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23
24 UNITED STATES DISTRICT COURT
25 CENTRAL DISTRICT OF CALIFORNIA
26 WESTERN DIVISION
27

28 Consumer Financial Protection
Bureau,

Plaintiff,

v.

D and D Marketing, Inc., d/b/a
T3Leads, *et al.*,

Defendants.

Case No. 2:15-cv-9692-PSG(Ex)

Honorable Philip S. Gutierrez

DECLARATION IN SUPPORT OF
PLAINTIFF'S OPPOSITION TO MOTION
FOR CERTIFICATION OF
INTERLOCUTORY APPEAL AND STAY

Hearing Date & Time: March 27, 2017; 1:30
p.m.

Courtroom 6A, 350 West 1st Street, 6th Floor,
Los Angeles, California 90012

1 I, Barry E. Reiferson, under 28 U.S.C. § 1746, declare as follows:

2 1. I am an attorney licensed to practice law in the State of New York and
3 am employed by the Consumer Financial Protection Bureau (CFPB or Bureau) as an
4 Attorney-Advisor in the Office of Enforcement.

5 2. I am admitted *pro hac vice* in this case as counsel for plaintiff CFPB.

6 3. I submit this declaration in support of the Bureau's opposition to the
7 defendants' motions for certification of interlocutory appeal and a concomitant stay
8 filed in three related cases: *CFPB v. D and D Marketing, Inc., d/b/a T3Leads, et al.*
9 [hereinafter *T3*], 2:15-cv-9692-PSG(Ex), ECF No. 69; *CFPB v. Dmitry Fomichev,*
10 2:16-cv-2724-PSG(Ex), ECF No. 47; *CFPB v. Davit Gasparyan*, 2:16-cv-2724-
11 PSG(Ex), ECF No. 61.

12 4. I have personal knowledge of the facts stated herein and am competent
13 and authorized to make this Declaration.

14 5. On October 27, 2016, the Bureau requested that all defendants in these
15 three related cases agree to participate in a Rule 26(f) conference and agree to
16 consolidation of the three cases. The T3 defendants (D and D Marketing, Inc.; Grigor
17 Demirchyan, and Marina Demirchyan) and Fomichev refused the request outright,
18 stating that a "Rule 26(f) conference, discovery and consolidation [was]
19 premature ... given the motions to dismiss pending before the Court." Gasparyan
20 stated first that he would likely refuse the request, but soon agreed in principle to a
21 joint Rule 26(f) conference with the other defendants later in 2016. Gasparyan and
22 the other defendants failed to schedule a Rule 26(f) conference or agree to
23 consolidation in 2016. On December 21, 2016, after numerous unreturned telephone
24 calls and emails to Gasparyan's counsel on the subject, Gasparyan's counsel advised
25 the Bureau that Gasparyan was substituting new counsel to whom all
26 communications should be directed.

27 6. On November 22, 2016, the Bureau requested the T3 Defendants' and
28 Fomichev's participation in a Rule 26(f) conference and reconsideration of

1 consolidation of the related cases. They refused the request, stating that consolidation
2 and a Rule 26(f) conference were still “premature.”

3 7. On December 22, 2016, the Bureau requested the T3 Defendants’ and
4 Fomichev’s participation in a Rule 26(f) conference. They refused the request,
5 stating that a Rule 26(f) conference was still premature.

6 8. On January 13, 2017, the Bureau asked the T3 Defendants to agree to
7 participate in a Rule 26(f) conference in February 2017, as no motion to compel
8 participation could be heard significantly in advance of the latest possible Rule 26(f)
9 conference deadline. The T3 Defendants agreed in principle to participate in a Rule
10 26(f) conference on February 27, 2017, but no earlier.

11 9. In January 2017, Fomichev agreed to participate in a Rule 26(f)
12 conference by February 27, 2017. Similarly, Gasparyan agreed in January 2017 to a
13 joint Rule 26(f) conference to take place on February 27, 2017.

14 10. After agreeing to participate in a joint Rule 26(f) conference only on the
15 last possible date, February 27, 2017, T3, the Demirchyans, and Gasparyan withdrew
16 from that participation immediately upon the Court’s continuance of the T3
17 scheduling conference.

18
19 I declare under penalty of perjury under the laws of the United States of America that
20 the foregoing is true and correct.

21 Executed on March 6, 2017, in New York, New York.

22
23 CONSUMER FINANCIAL PROTECTION BUREAU

24 By: /s/ Barry Reiferson
25 Barry E. Reiferson
26 Attorney-Advisor, Office of Enforcement
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